

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

MARK WAYNE CARTER

§

VS.

§

CIVIL ACTION NO. 1:08cv533

DIRECTOR, TDCJ-CID

§

MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Petitioner Mark Wayne Carter, an inmate confined at the Eastham Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed the above-styled petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

The court previously referred this matter to the Honorable Earl S. Hines, United States Magistrate Judge, for consideration pursuant to applicable orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge concerning the petition. The magistrate judge recommends the petition be dismissed as barred by the applicable statute of limitations.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the records, pleadings and all available evidence. Petitioner filed objections to the Report and Recommendation.

The court has conducted a *de novo* review of the objections. After careful consideration, the court is of the opinion the objections are without merit. Petitioner's claim of actual innocence does not entitle him to avoid the bar of the statute of limitations. *Felder v. Johnson*, 204 F.3d 168, 171 (5th Cir. 2000).

ORDER

Accordingly, petitioner's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. A final judgment shall be entered dismissing the petition in accordance with the

recommendation of the magistrate judge..

SIGNED this the **15** day of **December, 2008**.

A handwritten signature in black ink, reading "Thad Heartfield", written over a horizontal line.

Thad Heartfield
United States District Judge